### BEFORE THE STRUCTURAL PEST CONTROL BOARD DEPARTMENT OF PESTICIDE REGULATION STATE OF CALIFORNIA

Case No. 2012-38

OAH No. 2012040784

In the Matter of the Accusation Against:

BUG WISER; JUAN JIMENEZ OWNER/QUALIFYING MANAGER 13608 Dunrobin Avenue Bellflower, CA 90706 Company Registration Certificate No. PR 3191

and

## JUAN JIMENEZ

13608 Dunrobin Avenue Bellflower, CA 90706 **Operator's License No. OPR 9791** 

Respondent.

# DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the

Structural Pest Control Board, Department of Pesticide Regulation, as its Decision in this matter.

This Decision shall become effective on May 30, 2013

It is so ORDERED April 30, 2013

FOR THE STRUCTURAL PEST CONTROL BOARD DEPARTMENT OF PESTICIDE REGULATION

1	Kamala D. Harris	· · ·
	Attorney General of California GREGORY J. SALUTE	
2	Supervising Deputy Attorney General	
3	DESIREE TULLENERS Deputy Attorney General	
4	State Bar No. 157464	
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013	
	Telephone: (213) 897-2578	
6	Facsimile: (213) 897-2804 Attorneys for Complainant	
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8	BEFORE THE	
9	STRUCTURAL PEST CONTROL BOARD DEPARTMENT OF PESTICIDE REGULATION	
10	STATE OF C	CALIFORNIA
10		
11	In the Matter of the Accusation Against:	Case No. 2012-38
-12	BUG WISER; JUAN JIMENEZ	OAH No. 2012040784
13	OWNER/QUALIFYING MANAGER 13608 Dunrobin Avenue	STIPULATED SETTLEMENT AND
14	Bellflower, CA 90706	DISCIPLINARY ORDER
	Company Registration Certificate No. PR 3191	
15	Branch Office Certificate No. 4993	
16	and	
17	JUAN JIMENEZ	
18	351 Greenberry Drive La Puente, CA 91744	
	Operator's License No. OPR 9791	
19	Respondent.	
. <sup>•</sup> 20		January and the second s
21	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-	
22	entitled proceedings that the following matters are true:	
23	PARTIES	
	1. William H. Douglas (Complainant) was the Interim Registrar/Executive Officer of	
24		
25	the Structural Pest Control Board, Department of Pesticide Regulation. He brought this action	
26	solely in his official capacity. The Board is represented in this matter by Kamala D. Harris,	
27	Attorney General of the State of California, by Desiree Tulleners, Deputy Attorney General.	
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Respondent Bug Wiser and Juan Jimenez (by and through Juan Jimenez) is 2. 1 representing himself in this proceeding and have chosen not to exercise his right to be represented 2 by counsel. 3

On or about December 10, 1997, the Structural Pest Control Board issued Company 3. 4 Registration Certificate No. PR 3191 to Bug Wiser, with Juan Jimenez as owner and qualifying 5 manager (Respondent Jimenez). 6

On or about November 24, 1997, the Structural Pest Control Board issued Operator's License No. OPR 9791 to Juan Jimenez (Respondent Jimenez). The Operator's License was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-38, but expired on June 30, 2012.

# JURISDICTION

Accusation No. 2012-38 was filed before the Structural Pest Control Board (Board), 5. Department of Pesticide Regulation, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 16, 2012. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2012-38 is attached as Exhibit A, and incorporated herein 6 by reference.

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# ADVISEMENT AND WAIVERS

Respondent has carefully read, and understands the charges and allegations in 7. Accusation No. 2012-38. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

Respondent is fully aware of his legal rights in this matter, including the right to a 8. hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to 24 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel 25 the attendance of witnesses and the production of documents; the right to reconsideration and 26 court review of an adverse decision; and all other rights accorded by the California 27 Administrative Procedure Act and other applicable laws. 28

9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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## **CULPABILITY**

10. Respondent admits the truth of each and every charge and allegation in Accusation No. 2012-38.

11. Respondent agrees that his Company Registration Certificate and his Operator's License are subject to discipline, and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

# CONTINGENCY

12. This stipulation shall be subject to approval by the Structural Pest Control Board. Respondent understands and agrees that counsel for Complainant and the staff of the Structural Pest Control Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

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In consideration of the foregoing admissions and stipulations, the parties agree that 15. the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Company Registration Certificate No. PR 3191 and Operator's License No. OPR 9791 issued to Respondent Juan Jimenez are revoked. However, the revocations are stayed, and Respondent's Company Registration Certificate and Operator's License are placed on probation for three (3) years on the following terms and conditions.

Actual Suspension. Before the effective date of the Decision and Order adopting 1. this stipulation, Respondent shall pay to the Board the sum of \$1,000 by certified funds. This amount constitutes the balance owed to the Board for the \$4,000 fine contained in Citation No. CF 10-78, as set forth in paragraph 18 on page 7 in the First Cause for Discipline of the Accusation. In addition, before the effective date of the Decision and Order adopting this 13 stipulation, Respondent shall comply with the order of abatement contained in Citation No. CF 14 10-78, as set forth in paragraph 18 on page 7 in the First Cause for Discipline in the Accusation, by filing with the Board all WDOs for the addresses of 329 properties where work was performed 16 between August 7, 2008 and April 8, 2011. 17

If Respondent fails to comply with payment of the balance of the fine and filing of all WDOs as set forth above before the effective date of the Decision and Order adopting this stipulation then Company Registration Certificate No. PR 3191 and Operator's License No. OPR 9791 issued to Respondent Juan Jimenez shall be suspended from the practice of structural pest control until Respondent provides satisfactory proof to the Board of the completion of these two items.

Obey All Laws. Respondent shall obey all federal, state and local laws, and all laws and rules relating to the practice of structural pest control.

Quarterly Reports. Respondent shall file quarterly reports with the Board during 3. 26 the period of probation. 27

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4. **Tolling of Probation.** Should Respondent leave California to reside outside this state, Respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state shall not apply to reduction of the probationary period.

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5. Notice to Employers. Respondent shall notify all present and prospective employers of the Decision and Order in Accusation Case no. 2012-38, and the terms, conditions and restriction imposed on Respondent by said decision.

Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause his/her employer to report to the Board in writing acknowledging the employer has read the decision in Case No. 2012-38.

6. Notice to Employees. Respondent shall, upon or before the effective date of this decision, post or circulate a notice to all employees involved in structural pest control operations which accurately recite the terms and conditions of probation. Respondent shall be responsible for said notice being immediately available to said employees. "Employees" as used in this provision includes all full-time, part-time, temporary and relief employees and independent contractors employed or hired at any time during probation.

7. **Posted Notice of Suspension.** Respondent structural pest control company shall prominently post a suspension notice provided by the Board of the Board's order of suspension at its principal office and each of its branch offices in a place conspicuous and readable to the public. Said notice shall remain so posted during the entire period of actual suspension.

8. **Costs Reimbursement.** Respondent shall pay to the Board, pursuant to Business and Professions Code section 125.3, the cost of investigation and enforcement in this matter in the amount of \$3,123.26. Respondent shall be permitted to pay these costs pursuant to a payment plan approved by the Board. Probation shall not be terminated until all costs are paid in full. Failure to make a timely payment according to the payment schedule, and/or failure to complete payment of costs recovery, shall constitute a violation of probation, which may subject Respondent's licenses to outright revocation.

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9. **Completion of Probation.** Upon successful completion of probation, Respondent's license/certificate will be fully restored.

10. Violation of Probation. Should Respondent violate probation in any respect, the 1 Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and 2 carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against 3 Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, 4 and the period of probation shall be extended until the matter is final. 5

#### ACCEPTANCE.

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the 7 stipulation and the effect it will have on my Company Registration Certificate and Operator's 8 License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, 9 and intelligently, and agree to be bound by the Decision and Order of the Structural Pest Control 10 Board.

DATED:

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Dated:

Friend Para conto BUG WISER JUAN JIMENEZ Respondent

#### ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Structural Pest Control Board of the Department of Pesticide Regulation.

Respectfully submitted,

KAMALA D. HARRIS Attorney General of California GREGORY J. SALUTE Supervising Deputy Attorney General

DESIREE TULLENERS Deputy Attorney General Attorneys for Complainant

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STIPULATED SETTLEMENT (Case No. 2012-38)

10. **Violation of Probation.** Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

## ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Company Registration Certificate and Operator's License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Structural Pest Control Board.

DATED:

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# ENDORSEMENT

BUG WISER

JUAN JIMENEZ Respondent

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Structural Pest Control Board of the Department of Pesticide Regulation. Dated: Movemberl, 2012 Respectfully submitted, KAMALA D. HARRIS Attorney General of California GREGORY J. SALUTE Supervising Deputy Attorney General UMMENTULENERS Deputy Attorney General Attorney General Attorney General Attorney General Attorney General Attorney General